

STATE OF MICHIGAN
DEPARTMENT OF CONSUMER & INDUSTRY SERVICES
OFFICE OF FINANCIAL AND INSURANCE SERVICES
DIVISION OF INSURANCE
Before the Commissioner of Financial and Insurance Services

In the matter of

XXXXXXXXXXXXXXXXXX

Petitioner,

File No. 52959-001

v.

Health Alliance Plan of Michigan

Respondent.

_____ /

Issued and entered
this ____ day of May 2003
By Linda A. Watters
Commissioner

ORDER

I
PROCEDURAL BACKGROUND

On March 19, 2003, XXXXXXXXXXXXXXXX (Petitioner), filed a request for external review with the Commissioner of the Office of Financial and Insurance Services (Commissioner) under the Patient's Right to Independent Review Act (PRIRA), MCL 550.1901 *et seq.* After an assessment of the material submitted, the Commissioner accepted the request for external review.

The issue in this matter is contractual. There is no medical issue. Therefore, review by an independent review organization (IRO) is not required. The Commissioner reviews contractual issues under MCL 500.1911(7).

II FACTUAL BACKGROUND

Petitioner is a Health Alliance Plan (HAP) member. She has a history of fibromyalgia and temporomandibular joint (TMJ) problems. The masticatory dysfunction causes digestive disorders. A number of providers have requested authorization for reconstruction of the maxilla and mandible with the placement of endosseous implants. Petitioner believes the implants should be covered because her health is being affected by her inability to chew. HAP should authorize and cover the implants.

HAP denied Petitioner's request for authorization and coverage for reconstruction of the maxilla and mandible with implants. Implants are not covered under her Certificate of Coverage. Petitioner exhausted HAP's internal grievance process and received its final adverse determination letter dated January 28, 2003.

III ISSUE

Did HAP properly deny Petitioner authorization and coverage for implants for the reconstruction of the maxilla and mandible?

IV ANALYSIS

PETITIONER'S ARGUMENT

Petitioner argues respondent should cover implants for the reconstruction of her maxilla and mandible. The implants will help correct the problems she is experiencing with TMJ.

She has had TMJ problems and constant pain since she was eleven years old following a visit to a dentist and a tooth was pulled. At that time, the dentist pulled her jaw out of place. At age 23, the cause of the pain was diagnosed. To relieve the pain, her dentist extracted all of

her remaining jaw teeth, half of the jawbone and replaced her teeth with partial dentures. Now the bone has shrunk and the partials do not fit. The ridge is not large enough to hold the partials. As a result of the partials not being in place, her jaw does not stay in place. She cannot chew properly, which causes digestive problems.

Her PCP, physicians and dentists support her in this request as follows:

Physician Statements of Medical Necessity

XXXXXXXXXXXXXX, states her inability to chew “exacerbates her underlying bowel dysfunction and diverticulosis”. All previous attempts to treat her TMJ have been temporary. He believes she needs a definitive treatment that would improve her overall nutrition and health status. The use of implants is not for cosmetic correction.

Dentists’ Statements

Dr. XXXXXXXX notes Petitioner has digestive disorders as a result of masticatory dysfunction. He states Petitioner has been wearing partial dentures and her TMJ problems are exacerbated by their use. He sees the implants and associated medical procedures as a means to stabilize her masticatory impairment.

Dr. XXXXXXXX indicates Petitioner cannot function with a removable appliance due to lack of sufficient tissue thickness over the mandibular ridge. Her bite has collapsed which exacerbates her TMJ. The inability to chew properly makes it difficult to digest food.

Dr. XXXXXXXXXXXXXXXX, HAP’s Dental Consultant rendered a second opinion. Prior to the placement of implants, Petitioner will require bilateral maxillary sinus grafts along with lateral buccal only grafts for the atrophic mandibular edentulous ridges. He agrees with the Petitioner’s physicians (Dr. XXXXXXXX, XXXXXXXX and XXXXXXXX) that services are necessary for the treatment of atrophic maxillary and mandibular ridges.

Petitioner, her physicians and dentists believe the implants are medically necessary. HAP should cover the implants since the treatment is not for cosmetic correction.

HAP'S ARGUMENT

In its final adverse determination letter HAP denied authorization for the use of implants to reconstruct the maxillary and mandibular ridges. HAP bases its argument on the Certificate of Coverage. The Certificate contains coverage and limitations that state in pertinent part:

Section VIII. SERVICES AND BENEFITS

J. Oral and maxillofacial Services

1. Oral and maxillofacial surgery and related x-rays are a Covered Service when authorized by an Affiliated Provider Physician, according to Health Alliance's Plan's accepted referral and practice policies for the following conditions.

- a. Prompt repair and treatment of fractures of the jaw and facial dislocation of the jaw;
- b. Prompt repair of traumatic injury resulting from a non-occupational injury which occurs while the member is enrolled in Health Alliance Plan;
- c. Removal of teeth for treatment of lesion, tumors, and cysts on or in the mouth as pre-authorized by the Affiliated Provider Physician according to Health Alliance Plan's accepted referral and referral and practice policies;
- d. Hospital and related professional services will be covered when multiple extractions, concurrent with a hazardous medical condition, require the procedure to be performed in a hospital. These services must be arranged and authorized by a Health Alliance Plan Affiliated Provider Physician.

2. Temporomandibular Joint Therapy is a covered benefit when the following conditions are met:

- e. ...Only Phase I, non-invasive, reversible procedures as identified in Section VIII.J.2.b. will be covered under this contract;
- f. Each Phase I procedure will be authorized only once per Member per lifetime.
- g. Orthognathic surgery prior to age 21 years (surgery to correct the relationship or positions of the bones and soft tissues of the jaw) for congenital syndromes which directly affect the growth, development, and function of the jaw

and surrounding structures, when pre-approved by the Medical Director according to Health Alliance Plan criteria.

- h. All other orthognathic, oral, and maxillofacial surgery is not a covered benefit.

HAP argues implants are not a covered service. The oral surgery services that are covered are listed in Section VIII. J, Services that are not listed are excluded according to the Certificate of Coverage.

COMMISSIONER'S REVIEW

The Commissioner carefully reviewed the arguments and documents presented by the parties in this case. The focus of this analysis is whether HAP properly denied Petitioner authorization and coverage for implants for the reconstruction of the maxillary and mandibular ridges.

The HAP Certificate of Coverage controls the analysis in this case. As noted in HAP's argument:

1. All oral and maxillofacial surgery and related x-rays must be pre-authorized and is limited to certain conditions as listed in VIII. J of the Certificate of Coverage,
2. There is treatment for facial dislocation of the jaw,
3. TMJ therapy must also be pre-authorized, and is limited to: Phase I treatment, and occlusal splints will be allowed if the appropriate rider covers the member.

The HAP certificate with respect to TMJ will only cover Phase I treatment. Implants are not covered under Petitioner's Certificate of Coverage for treatment of TMJ. The evidence presented in this case clearly shows that HAP has not authorized and will not authorize implants for the treatment of Petitioner's condition.

Petitioner believes the services should be covered because her atrophic ridges causes problems with her TMJ. She notes the condition:

- causes an inability to chew,
- causes her jaw to dislocate
- exacerbates underlying medical conditions such as bowel dysfunction, TMJ, diverticulosis and overall general health,

- and
- her healthcare providers support the services are medically necessary.

The Commissioner agrees with HAP's final determination and finds that Petitioner did not meet the conditions for ***implants*** to be covered in the reconstruction of her maxillary and mandible ridges under the oral surgery or the TMJ provisions of her Certificate of Coverage. While the Commissioner agrees that surgery correction may be medically necessary to correct the atrophic ridges and the collapsed bite, implants are not covered for the correction of TMJ. The requested service is beyond the scope of Phase I treatment that is covered by the certificate. Accordingly, the Commissioner finds HAP's final adverse determination is valid.

V ORDER

The Commissioner upholds HAP's January 28, 2003, final adverse determination in Petitioner's case. HAP properly denied Petitioner authorization for implants in the reconstruction of the maxillary and mandibular ridges.

This is a final decision of an administrative agency. Under MCL 550.1915, any person aggrieved by this Order may seek judicial review no later than sixty days from the date of this Order in the Circuit Court for the county where the covered person resides or in the Circuit Court of Ingham County. A copy of the petition for judicial review should be sent to the Commissioner of the Office of Financial and Insurance Services, Health Plans Division, Post Office Box 30220, Lansing, MI 48909-7720.

Linda A. Watters
Commissioner